

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Francisco MARTINEZ-Gomez,

Defendant

Magistrate Docket No. 08 MJ 0229

COMPLAINT FOR VIOLATION OF:

DEPUTY

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **January 24, 2008** within the Southern District of California, defendant, **Francisco MARTINEZ-Gomez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

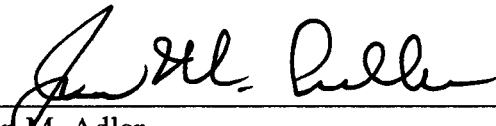
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **25th** DAY OF **January 2008**



Jan M. Adler

UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**  
**Francisco MARTINEZ-Gomez**

**PROBABLE CAUSE STATEMENT**

On January 24, 2008, Border Patrol Agent Wies, was performing line watch duties in the Imperial Beach area of operations. At approximately 4:45 A.M., National Guard scope operator radioed via service radio of four individuals walking north in an area known as Campos Ditch. This area is approximately four miles west of the San Ysidro, California, Port of Entry and is approximately fifty yards north of the United States/Mexico International Boundary.

Agent Wies responded to the Campos Ditch area and was advised by the National Guard scope operator of the location he last observed the four individuals. Agent Wies observed the four individuals lying down in the ditch. Agent Wies approached the individuals and immediately identified himself as a United States Border Patrol Agent and questioned the individuals, including one later identified as **MARTINEZ-Gomez, Francisco**, as to their citizenship and nationality. All individuals, including MARTINEZ, freely admitted that they were citizens and nationals of Mexico illegally present in the United States and they possessed no immigration documentation permitting them to enter or remain in the United States legally. Agent Wies arrested the four individuals, and subsequently had them transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on January 8, 2008 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

MARTINEZ was advised of his Miranda Rights and stated that he understood them. MARTINEZ stated that he was willing to answer questions without an attorney present. During his sworn statement, MARTINEZ freely admitted that he was a citizen and national of Mexico not in possession of any immigration documents allowing him to enter and or remain in the United States legally. MARTINEZ further stated that he had not requested permission from the Attorney General to re-enter the United States.